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# BOARD NOTICE

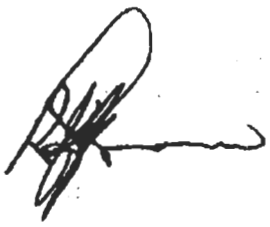
## BOARD NOTICE 91 OF 2006

## FINANCIAL SERVICES BOARD

## FINANCIAL ADVISORY AND INTERMEDIARY SERVICES ACT, 2002 (ACT NO 37 OF 2002)

## DETERMINATION OF FIT AND PROPER REQUIREMENTS FOR FINANCIAL SERVICES PROVIDERS, 2006

I, Robert James Gourlay Barrow, the Registrar of Financial Services Providers, after consultation with the Advisory Committee on Financial Services Providers, hereby under section 8(1) of the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), determine the fit and proper requirements for financial services providers as set out in the Schedule.



**RJG BARROW,**
*Registrar of Financial Services Providers*

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# SCHEDULE

## DETERMINATION OF FIT AND PROPER REQUIREMENTS FOR FINANCIAL SERVICES PROVIDERS, 2006

### PART I

**Definitions**

**1.** (1) In this Schedule-

*(a)* "the Act" means the Financial Advisory and Intermediary Services Act, 2002 (Act No. 37 of 2002), including, unless the context indicates otherwise, any measure referred to in the definition of "this Act" in section 1(1) of the Act;

*(b)* "the SAQA Act" means the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995), including any regulations promulgated thereunder,

and any word or expression to which a meaning has been assigned in the Act or in the SAQA Act, shall have that meaning and, unless the context otherwise indicates –

**"administrative FSP"** means an administrative FSP as defined in the Notice of Codes of Conduct for Administrative and Discretionary FSPs, 2003, as published by Board Notice 79 of 2003 in *Gazette* No. 25299 of 8 August 2003;

**"applicant"** means the person who has submitted an application in terms of section 8(1) of the Act for a licence to act as a financial services provider;

**"application"** means an application by an applicant submitted in the form and manner determined by the Registrar in the Application by Financial Services Providers for Authorisation by the Financial Services Board as published by Board Notice 98 of 2003 in Gazette No. 25523 of 3 October 2003;

**"BANKSETA"** means the Banking Sector Education and Training Authority;

**"BANKSETA ETQA"** means the Banking Sector Education and Training Quality Assurance Body;

**"Category I"**, in relation to a financial services provider, means all persons, other than persons referred to in Categories II and III, who require licences to render the financial services (other than financial services mentioned in Categories II and III) as set out in the relevant application;

**"Category II"**, in relation to a financial services provider, means all persons who require licences as discretionary FSPs as set out in the relevant application;

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**"Category III"**, in relation to a financial services provider, means all persons who require licences as administrative FSPs as set out in the relevant application;

**"core unit standards"** means unit standards classified as the core portion of a qualification quality assured by INSQA, BANKSETA ETQA or FassetQA and registered on the NQF;

**"date of first appointment"** means the date on which a person was first appointed as a key individual or representative of any authorised financial services provider;

**"discretionary FSP"** means a discretionary FSP as defined in the Notice of Codes of Conduct for Administrative and Discretionary FSPs, 2003, as published by Board Notice 79 of 2003 in *Gazette* No. 25299 of 8 August 2003;

**"ETQA"** means a financial services Education and Training Quality Assurance body, and includes INSQA, FassetQA, HEQC and BANKSETA ETQA;

**"experience"**, in relation to an applicant, means practical experience gained in the rendering of services similar or corresponding to financial services and where-

*(a)* such experience involves the active and ongoing gaining of knowledge, skills and expertise required in terms of the Act;

*(b)* at least 6 months of such experience is relevant to the subcategory as regards financial products, in respect of which the applicant requires an authorisation; and

*(c)* with regard to providers of Category II, at least 50% of such minimum prescribed experience relates directly to the financial products in respect of which financial services are to be rendered, irrespective of whether the experience is gained-

(i) in the capacity as owner, trustee, associate, director, member, partner, employee, consultant or otherwise, of the business involved; or

(ii) in the course of undergoing practical training or a learnership:

Provided that any experience referred to in this definition may have been gained outside the Republic, and may so be, or have been, gained during intermittent periods, and includes experience gained prior to the date envisaged in section 7(1) of the Act;

**"FASSET"** means the Finance, Accounting, Management Consulting and other Financial Services Education and Training Authority;

**"FassetQA"** means the Finance, Accounting, Management Consulting and other Financial Services Education and Training Quality Assurance Body;

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**"FETC"** means the Further Education and Training Certificate;

**"foreign qualification approved by the Registrar or SAQA"** means a qualification approved by notice in the *Gazette* for purposes of this Determination by SAQA or the Registrar, after consultation with the Advisory Committee;

**"health services benefit"** means a benefit referred to in paragraph *(g)* of the definition of 'financial product' in section 1(1) of the Act;

**"HEQC"** means the Higher Education Quality Committee of the Council on Higher Education as contemplated in the Higher Education Act, 1997;

**"Higher Education Institution"** means a registered Higher Education Institution as defined in the Higher Education Act, 1997;

**"INSETA"** means the Insurance Sector Education and Training Authority;

**"INSQA"** means the Insurance Sector Education and Training Quality Assurance Body;

**"learnership"** means a learnership as contemplated in the Skills Development Act, 1998 (Act No. 97 of 1998);

**"Long-Term Insurance Category A"** means assistance policies as defined in the Long-term Insurance Act, 1998 (Act No. 52 of 1998), but excludes policies mentioned in Long-term Insurance Categories B and C;

**"Long-Term Insurance Category B"** means the following long-term insurance contracts as defined in the Long-term Insurance Act, 1998 (Act No. 52 of 1998):

*(a)* risk policies which provide cover in respect of death, disability and health events, and which are not marketed as investment or savings policies;

*(b)* investment/savings policies (including recurring premium retirement annuity policies, but excluding single premium retirement annuity policies and policies issued to and/or in respect of preservation funds) which guarantee a minimum return of capital invested at a specified future date or dates, and where such minimum is ascertainable in Rand terms at inception;

*(c)* annuities which guarantee a minimum annuity for the term of the policy which is ascertainable in Rand terms at inception; and

*(d)* any policy which combines the policy features included in paragraphs *(a)*, *(b)* or *(c)*,

but excludes policies mentioned in Long-term Insurance Category C;

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**"Long-Term Insurance Category C"** means single premium retirement annuity policies, policies issued to and/or in respect of preservation funds and other long-term insurance contracts or policies as defined in the Long-term Insurance Act, 1998 (Act No. 52 of 1998), and not specified in Long-term Insurance Categories A and B;

**"National Learner Record Database (NLRD)"** means an information system to assist the SAQA to manage the National Qualifications Framework;

**"National Qualifications Framework"** or **"NQF"** means the National Qualifications Framework of the SAQA as set out in the SAQA Regulations published in *Regulation Gazette* No. 6140 of 28 March 1998;

**"pension fund benefits"** means financial products contemplated in paragraph *(d)*(i) of the definition of "financial product" in section 1(1) of the Act;

**"retail pension benefits"** means pension fund benefits provided by retirement annuity and/or preservation pension and/or preservation provident funds;

**"recognition of prior learning (RPL)"** means the assessment, by an assessor accredited by SAQA, of evidence of previous learning and experience against registered unit standards or qualifications registered on the NQF;

**"SAQA"** means the South African Qualifications Authority established in terms of the provisions of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995);

**"SETA"** means a financial services Sector Education and Training Authority registered with the Department of Labour, including INSETA, FASSET and BANKSETA;

"**short-term insurance commercial lines**" means short-term insurance contracts or policies referred to in the Short-term Insurance Act, 1998 (Act No. 53 of 1998), purchased by juristic persons and natural persons acting in a business capacity;

"**short-term insurance personal lines**" means short-term insurance contracts or policies referred to in the Short-term Insurance Act, 1998 (Act No. 53 of 1998), purchased by natural persons acting otherwise than in a business capacity;

**"skills programme"** means a skills programme referred to in the Skills Development Act, 1998 (Act No. 97 of 1998);

"**subcategory**" means, depending on the relevant context, either-

*(a)* a subcategory of financial products as appears from Table A in paragraph 3(1) of this Determination; or

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*(b)* a subcategory of minimum experience as appears from Tables B and C in paragraphs 3(2) and 3(3) of this Determination, respectively, as the case may be.

(2) Unless the context indicates otherwise, a reference in this Determination to-

*(a)* a qualification mentioned in Column Two, Three or Four of Table A, B or C in paragraph 3(1), (2) or 3(3) of this Determination, as the case may be, must, subject to subparagraph (*c*) below, be construed as a reference to any such qualification obtained in the Republic (or a foreign qualification recognised by the Registrar) before or after the date of coming into operation of this Determination, irrespective of whether a partial completion of requirements for the qualification occurred before such date, including a qualification or skills programme consisting of unit standards registered by SAQA, and registered within the National Qualifications Framework, and which qualification may be or may have been obtained in part by Recognition of Prior Learning (RPL);

(*b*) "grade", refers to the level of education obtained in the course of attending formal schooling, or adult basic education and training provided by a registered or recognised education institution in the Republic;

(*c*) an "appropriate" certificate, diploma, skills programme or degree, refers to such academic qualifications obtained in the fields of commerce and/or commercial law which includes modules on financial accounting, financial markets, commercial law, insurance law, estate and trust law and similar subjects, or other particular fields of study which equip such person to render a financial service in a specialised class of financial product, registered by SAQA and provided by a registered higher institution whether local or foreign;

*(d)* Category I, II or III, or to any subcategory, shall not be construed as preventing an applicant from applying for a licence in respect of one or more financial products of more than one Category or subcategory, subject to compliance with the requirements of this Determination as regards each and every such Category or subcategory; and

*(e)* any skills programme (i.e. less than 120 credits), and not whole qualifications (i.e. 120 credits and higher), must, subject to any future amendment of this Determination by the Registrar in connection with a stated number of required credits, not be construed as eliminating such a whole qualification which all relevant applicants are in any case encouraged to complete.

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## PART II

## PERSONAL CHARACTER QUALITIES OF HONESTY AND INTEGRITY

### Honesty and integrity

**2.** (1) An applicant must be a person who is honest and has integrity.

(2) In determining whether the applicant complies with subparagraph (1), the Registrar may refer to any information in possession of the Registrar or brought to the Registrar's attention.

(3) Without prejudice to the generality of subparagraphs (2) and (4), any of the following factors constitutes prima facie evidence that the applicant does not qualify in terms of subparagraph (1), namely that the applicant-

*(a)* has within a period of five years preceding the date of application been found guilty in any civil or criminal proceedings by a court of law (whether in the Republic or elsewhere) of having acted fraudulently, dishonestly, unprofessionally, dishonourably or in breach of a fiduciary duty;

*(b)* has within a period of five years preceding the date of application been found guilty by any professional or financial services industry body (whether in the Republic or elsewhere) recognised by the Board, of an act of dishonesty, negligence, incompetence or mismanagement, sufficiently serious to impugn the honesty and integrity of the applicant;

*(c)* has within a period of five years preceding the date of application been denied membership of any body referred to in subparagraph *(b)* on account of an act of dishonesty, negligence, incompetence or mismanagement, sufficiently serious to impugn the honesty and integrity of the applicant;

*(d)* has within a period of five years preceding the date of application-

(i) been found guilty by any regulatory or supervisory body (whether in the Republic or elsewhere), recognised by the Board; or

(ii) had its authorisation to carry on business refused, suspended or withdrawn by any such body,

on account of an act of dishonesty, negligence, incompetence or mismanagement sufficiently serious to impugn the honesty and integrity of the applicant;

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*(e)* has within a period of five years preceding the date of application, had any licence granted to the applicant by any regulatory or supervisory body referred to in subparagraph (d) suspended or withdrawn by such body on account of an act of dishonesty, negligence, incompetence or mismanagement, sufficiently serious to impugn the honesty and integrity of the applicant; or

*(f)* has at any time prior to the date of application been disqualified or prohibited by any court of law (whether in the Republic or elsewhere) from taking part in the management of any company or other statutorily created, recognised or regulated body, irrespective whether such disqualification has since been lifted or not.

(4) An applicant must in the application be candid and accurate and must of own accord disclose all facts or information at the disposal of, or which may be accessible to the applicant, and which may be relevant for purposes of a decision by the registrar that the applicant complies or does not comply with subparagraph (1).

## PART III

## COMPETENCY AND OPERATIONAL ABILITY

### Competency

**3.** (1) Financial Services Providers, Category I

Subject to the provisions of the Act, an applicant for a licence to act as a financial services provider, Category I and, where applicable, any key individual of any such person, must be a person who, in respect of one or more of the financial products of a subcategory appearing in Column One of Table A hereunder in respect of which the applicant wishes to carry on business as stated in the relevant application–

(a) has the minimum experience applicable to that subcategory stated in Column Two of that Table;

(b) has achieved the minimum academic standard, qualifications or professional status applicable to that subcategory as stated in Column Three of that Table; and

(c) will after licensing comply with the conditions/restrictions as indicated in Column Four of that Table (if any), in addition to any other conditions/restrictions imposed by the Registrar on the applicant in terms of the Act (if any), as indicated on the relevant licence when granted:

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| TABLE A | | | |
|---|---|---|---|
| **COLUMN ONE Subcategory** | **COLUMN TWO Minimum experience** | **COLUMN THREE Minimum academic standard or qualifications** | **COLUMN FOUR Conditions/restrictions** |
| (1) Long-term Insurance Category A | 6 months;<br><br>Or<br><br>must have completed a relevant SETA learnership | • A minimum of an appropriate NQF level 2 skills programme consisting of core unit standards registered by SAQA and quality assured by an ETQA (minimum 12 credits), as certified by a SETA or its approved agent to have been achieved;<br><br>Or<br><br>• a Grade 10 (Standard 8 or an equivalent NQF Level 2 qualification) | An applicant, any key individual and any representative must with in 3 years from the date of licensing or fist appointment, as the case may be, and not later than 31 December 2009, complete a minimum of–<br><br>▪ an appropriate NQF level 2 skills programme based on core unit standards registered by SAQA and quality assured by an ETQA as listed on the NLRD, consisting of a minimum of 30 credits;<br><br>Or<br><br>• an appropriate NQF level 2 qualification provided by a registered higher education institution quality assured by the HEQC. |
| (2) Short-term Insurance Personal Lines | 1 year;<br><br>Or<br><br>must have completed a relevant SETA learnership | • A minimum of an appropriate NQF level 4 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA (minimum 12 credits);<br><br>Or<br>• a Grade 11 (Standard 9) or an equivalent NQF level 3 qualification | An applicant, any key individual and any representative must with in 3 years from the date of licensing or fist appointment, as the case may be, and not later than 31 December 2009, complete a minimum of–<br><br>• an appropriate NQF level 4 skills programme based on unit standards registered by SAQA and quality assured by an ETQA as listed on the NLRD, consisting of a minimum of 30 credits;<br><br>Or<br><br>• a National Certificate at NQF level 4 registered by SAQA and quality assured by an ETQA;<br><br>Or<br><br>• an appropriate NQF level 4 qualification provided by a registered higher education institution quality assured by the HEQC. |

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| **COLUMN ONE Subcategory** | **COLUMN TWO Minimum experience** | **COLUMN THREE Minimum academic standard or qualifications** | **COLUMN FOUR Conditions/restrictions** |
| (3) Long-term Insurance Category B | 1 year;<br>Or<br>must have completed a relevant SETA learnership | • A minimum of an appropriate NQF level 4 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA (minimum 12 credits);<br><br>Or<br><br>• a Grade 11 (Standard 9) or an equivalent NQF level 3 qualification | An applicant, any key individual and any representative must with in 3 years from the date of licensing or fist appointment, as the case may be, and not later than 31 December 2009, complete a minimum of–<br><br>• an appropriate NQF level 4 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA as listed on the NLRD, consisting of a minimum of 30 credits;<br><br>Or<br><br>▪ an appropriate NQF level 4 qualification;<br><br>Or<br><br>• an appropriate NQF level 4 qualification provided by a registered higher education institution quality assured by the HEQC. |
| (4) Long-term Insurance Category C | 1 year | • A minimum of an appropriate NQF level 5 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA (minimum 30 credits);<br><br>Or<br><br>• a Grade 12 (school leaving) FETC;<br><br>Or<br><br>• an appropriate National Certificate at NQF Level 4 | An applicant, any key individual and any representative must with in 3 years from the date of licensing or fist appointment, as the case may be, and not later than 31 December 2009, complete a minimum of–<br><br>• an appropriate NQF level 5 skills programme consisting of unit standards registered by SAQA and quality assured by INSQA as listed on the NLRD, consisting of a minimum of 60 credits;<br><br>Or<br><br>• an appropriate Diploma at NQF level 5;<br><br>Or<br><br>• an appropriate NQF level 5 qualification provided by a registered higher education institution quality assured by the HEQC. |



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| TABLE A | | | |
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| COLUMN ONE Subcategory | COLUMN TWO Minimum experience | COLUMN THREE Minimum academic standard or qualifications | COLUMN FOUR Conditions/restrictions |
| (5) Retail pension benefits | 1 Year | • A minimum of an appropriate NQF level 5 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA (minimum 30 credits);<br>Or<br>• a Grade 12 (school leaving) FETC;<br>Or<br>• an appropriate National Certificate at NQF Level 4 | An applicant, any key individual and any representative must with in 3 years from the date of licensing or fist appointment, as the case may be, and not later than 31 December 2009, complete a minimum of–<br>• an appropriate NQF level 5 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA as listed on the NLRD, consisting of a minimum of 60 credits;<br>Or<br>• an appropriate Diploma at NQF level 5;<br>Or<br>• an appropriate NQF level 5 qualification provided by a registered higher education institution quality assured by the HEQC. |
| (6) Short-term Insurance Commercial Lines | 1 year | • A minimum of an appropriate NQF level 4 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA (minimum 30 credits);<br>Or<br>• a Grade 12 (School leaving) FETC | An applicant, any key individual and any representative must with in 3 years from the date of licensing or fist appointment, as the case may be, and not later than 31 December 2009, complete a minimum of–<br>• an appropriate NQF level 4 skills programme consisting of unit standards registered by SAQA and quality assured by INSQA as listed on the NLRD, consisting of a minimum of 60 credits;<br>Or<br>• an appropriate NQF level 4 qualification provided by a registered higher education institution quality assured by the HEQC. |

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| **COLUMN ONE Subcategory** | **COLUMN TWO Minimum experience** | **COLUMN THREE Minimum academic standard or qualifications** | **COLUMN FOUR Conditions/restrictions** |
| (7) Pension Fund Benefits (excluding retail pension benefits) | 1 year | • A minimum of an appropriate NQF level 5 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA (minimum 30 credits);<br>Or<br>• a Grade 12 (School leaving) FETC;<br>Or<br>• an appropriate National Certificate at NQF level 4 | An applicant, any key individual and any representative must with in 3 years from the date of licensing or fist appointment, as the case may be, and not later than 31 December 2009, complete a minimum of–<br>• an appropriate NQF level 5 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA as listed on the NLRD, consisting of a minimum of 60 credits;<br>Or<br>• an appropriate NQF level 5 qualification provided by a registered higher education institution quality assured by the HEQC. |
| (8) Securities and instruments referred to in paragraph (a) of the definition of "financial product" in section 1(1) of the Act | 3 years | • A Grade 12 (School leaving) or FETC;<br>Or<br>• a minimum of an appropriate NQF level 6 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA (minimum 30 credits) | An applicant, any key individual and any representative must with in 3 years from the date of licensing or fist appointment, as the case may be, and not later than 31 December 2009, complete a minimum of–<br>• an appropriate NQF level 6 skills programme consisting of unit standards listed on the NLRD, consisting of a minimum of 60 credits;<br>Or<br>• an appropriate NQF level 6 qualification provided by a registered higher education institution quality assured by the HEQC. |
| | 2 years | • An appropriate qualification at NQF level 5;<br>Or<br>• A minimum of an appropriate NQF level 6 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA (minimum 60 credits) | N/A |
| | 1 year | • An appropriate qualification at NQF level 6 | N/A |

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| **COLUMN ONE Subcategory** | **COLUMN TWO Minimum experience** | **COLUMN THREE Minimum academic standard or qualifications** | **COLUMN FOUR Conditions/restrictions** |
| (9) Participatory Interests in one or more collective Investment schemes | 1 year | • A Grade 12 (School leaving) or FETC;<br>Or<br>• a minimum of an appropriate NQF level 5 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA (minimum 30 credits);<br>Or<br>• an appropriate National Certificate at NQF level 4 | An applicant, any key individual and any representative must with in 3 years from the date of licensing or fist appointment, as the case may be, and not later than 31 December 2009, complete a minimum of–<br>• an appropriate NQF level 5 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA as listed on the NLRD, consisting of a minimum of 60 credits;<br>Or<br>• an appropriate Diploma/Certificate at NQF level 5;<br>Or<br>• an appropriate NQF level 5 qualification provided by a registered higher education institution quality assured by the HEQC. |
| (10) Foreign currency denominated investment instruments, excluding foreign currency deposits | 3 years | • A Grade 12 (School leaving);<br>Or<br>• A minimum of an appropriate NQF level 6 skills programme consisting of core unit standards registered by SAQA and quality assured by an ETQA (minimum 30 credits) | An applicant, any key individual and any representative must with in 3 years from the date of licensing or fist appointment, as the case may be, and not later than 31 December 2009, complete a minimum of–<br>• an appropriate NQF level 6 skills programme consisting of unit standards listed on the NLRD, and consisting of a minimum of 60 credits;<br>Or<br>• an appropriate NQF level 6 qualification provided by a registered higher education institution quality assured by the HEQC. |
| | 2 years | • An appropriate diploma and/or certificate at NQF level 5 | N/A |
| | 1 year | • An appropriate qualification at NQF level 6 | N/A |

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| **COLUMN ONE Subcategory** | **COLUMN TWO Minimum experience** | **COLUMN THREE Minimum academic standard or qualifications** | **COLUMN FOUR Conditions/restrictions** |
| (11) Health Service Benefits | The applicant must be registered as a broker or apprentice broker in terms of the pro-visions of Regulation 28B of the Medical Schemes Act, 1998 (Act No. 131 of 1998). | • Grade 12, FETC or equivalent educational qualification;<br><br>Or<br><br>• a minimum of an appropriate NQF level 5 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA (minimum 30 credits) | An applicant, any key individual and any representative must with in 3 years from the date of licensing or fist appointment, as the case may be, and not later than 31 December 2009, complete a minimum of–<br><br>• an appropriate NQF level 5 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA as listed on the NLRD, and consisting of a minimum of 60 credits;<br><br>Or<br><br>• an appropriate certificate at NQF level 5;<br><br>Or<br><br>• an appropriate NQF level 5 qualification provided by a registered higher education institution quality assured by the HEQC. |
| (12) Deposits as defined in section 1(1) of the Banks Act, 1990 (Act No. 94 of 1990), including foreign currency deposits, of a term exceeding 12 months | 1 year | • A minimum of an appropriate NQF level 4 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA. (minimum 12 credits);<br><br>Or<br><br>• Grade 12, FETC or equivalent educational qualification | An applicant, any key individual and any representative must with in 3 years from the date of licensing or fist appointment, as the case may be, and not later than 31 December 2009, complete a minimum of–<br><br>• an appropriate NQF level 4 skills programme based on the unit standards registered by SAQA and quality assured by an ETQA as listed on the NLRD, consisting of a minimum of 30 credits;<br><br>Or<br><br>• an appropriate certificate at NQF level 5;<br><br>Or<br><br>• an appropriate NQF level 4 qualification provided by a registered higher education institution quality assured by the HEQC. |

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| TABLE A | | | |
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| COLUMN ONE Subcategory | COLUMN TWO Minimum experience | COLUMN THREE Minimum academic standard or qualifications | COLUMN FOUR Conditions/restrictions |
| (13) Deposits as defined in section 1(1) of the Banks Act, 1990 (Act No. 94 of 1990), including foreign currency deposits, with a term of 12 months or less | 6 months | • A minimum of an appropriate NQF level 2 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA. (minimum 12 credits);<br><br>Or<br><br>• Grade 12, FETC or equivalent educational qualification | An applicant, any key individual and any representative must with in 3 years from the date of licensing or fist appointment, as the case may be, and not later than 31 December 2009, complete a minimum of–<br>• an appropriate NQF level 2 skills programme based on unit standards registered by SAQA and quality assured by an ETQA as listed on the NLRD, consisting of a minimum of 30 credits;<br><br>Or<br><br>• an appropriate NQF level 2 qualification provided by a registered higher education institution quality assured by the HEQC. |
| (14) A benefit provided by a friendly society contemplated in paragraph *(d)*(ii) of the definition of "financial product" in section 1(1) of the Act | 6 months;<br><br>Or<br><br>must have completed a relevant INSETA learnership | ▪ A minimum of an appropriate NQF level 2 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA (minimum 12 credits), as certified by INSETA or its approved agent to have been achieved;<br><br>Or<br><br>• a Grade 10 (Standard 8 or an NQF level 2 equivalent qualification) | An applicant, any key individual and any representative must with in 3 years from the date of licensing or fist appointment, as the case may be, and not later than 31 December 2009, complete a minimum of–<br>• an appropriate NQF level 2 skills programme based on core unit standards registered by SAQA and quality assured by an ETQA as listed on the NLRD, consisting of a minimum of 30 credits;<br><br>Or<br><br>• an appropriate NQF level 2 qualification registered by SAQA and quality assured by an ETQA;<br><br>Or<br><br>• an appropriate NQF level 2 qualification provided by a registered higher education institution quality assured by the HEQC. |

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(2) Financial Services Providers, Category II

Subject to the provisions of the Act, an applicant for a licence to act as a Financial Services Provider, Category II, and, where applicable, any key individual of any such provider, must be a person who, in respect of the subcategory appearing in Column One of Table B hereunder for which the applicant qualifies–

*(a)* has the minimum experience applicable to that subcategory appearing in Column One of that Table;

*(b)* has achieved the minimum academic standard, qualifications or professional status applicable to that subcategory as stated in Column Two of that Table; and

*(c)* will after licensing be subject to the conditions/restrictions as indicated in Column Three of that Table (if any), in addition to any other conditions/restrictions imposed by the Registrar on the applicant in terms of the Act (if any), as indicated on the relevant licence when granted:

**TABLE B**

| COLUMN ONE<br>Minimum experience | COLUMN TWO<br>Minimum academic standard or qualifications | COLUMN THREE<br>Conditions/restrictions |
|---|---|---|
| Subcategory 1<br>5 years | • Grade 12 (Standard 10 or an equivalent qualification) or FETC | An applicant, any key individual and any representative must with in 3 years from the date of licensing or fist appointment, as the case may be, and not later than 31 December 2009, complete a minimum of–<br>• an appropriate qualification at NQF level 5;<br>Or<br>• an appropriate NQF level 6 qualification provided by a registered higher education institution quality assured by the HEQC. |
| Subcategory 2<br>4 years | • An appropriate qualification at NQF level 5;<br>Or<br>• A minimum of an appropriate NQF level 6 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA (minimum 120 credits) | N/A |
| Subcategory 3<br>3 years | • An appropriate degree or equivalent diploma at NQF level 6 | N/A |

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(3) Financial Services Providers, Category III

Subject to the provisions of the Act, an applicant for a licence to act as a Financial Services Provider, Category III, and, where applicable, any key individual of any such provider, must be a person who, in respect of the subcategory appearing in Column One of Table C hereunder for which the applicant qualifies–

*(a)* has the minimum experience stated in Column One of Table C;

*(b)* has achieved the minimum academic standard, qualifications or professional status applicable to that subcategory appearing in Column Two of Table C; and

*(c)* will after licensing be subject to the conditions/restrictions as indicated in Column Three of Table C (if any), in addition to any other conditions/restrictions imposed by the Registrar on the applicant in terms of the Act (if any), as indicated on the relevant licence when granted:

**TABLE C**

| COLUMN ONE<br>Minimum experience | COLUMN TWO<br>Minimum academic standard or qualifications | COLUMN THREE<br>Conditions/restrictions |
|---|---|---|
| Subcategory 1<br>3 years | • An appropriate National Certificate at NQF level 4;<br><br>Or<br><br>• A Grade 12 (Matric) or FETC;<br><br>Or<br><br>• a minimum of an appropriate NQF level 6 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA (minimum 30 credits) | An applicant, any key individual and any representative must with in 3 years from the date of licensing or fist appointment, as the case may be, and not later than 31 December 2009, complete a minimum of–<br><br>• an appropriate NQF level 6 skills programme listed on the NLRD, and consisting of a minimum of 60 credits;<br><br>Or<br><br>• an appropriate NQF level 6 qualification provided by a registered higher education institution quality assured by the HEQC. |
| Subcategory 2<br>2 years | • An appropriate National Certificate at NQF level 5;<br><br>Or<br><br>• a minimum of an appropriate NQF level 6 skills programme consisting of unit standards registered by SAQA and quality assured by an ETQA (minimum 60 credits) | N/A |
| Subcategory 3<br>1 year | • An appropriate diploma and/or certificate at NQF level 6 | N/A |

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**Operational ability**

**4.** (1) An applicant must have and be able to maintain the operational ability to fulfill the responsibilities imposed by the Act on licensees, including at least the following:

*(a)* A fixed business address;

*(b)* adequate access to communication facilities including at least a full-time telephone or cell phone service, and typing and document duplication facilities;

*(c)* adequate storage and filing systems for the safe-keeping of records, business communications and correspondence; and

*(d)* an account with a registered bank including, where required by the Act, a separate bank account for client funds.

(2) An applicant must have in place the appropriate money laundering control systems and provision for training of staff, including identification, record-keeping and reporting procedures, where required under the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001).

## PART IV

## FINANCIAL SOUNDNESS

**5.** (1) An applicant must not be an unrehabilitated insolvent or under liquidation or provisional liquidation.

(2) The assets of an applicant (excluding goodwill and other intangible assets) must exceed the applicant's liabilities (excluding loans validly subordinated in favour of all other creditors), subject to any exemptions granted.

## PART V

## MISCELLANEOUS

**Repeals**

**6.** Subject to paragraph 7, the Determination of Fit and Proper Requirements for Financial services Providers, 2003, promulgated in Board Notice 91 of 2003 in *Gazette* 25446 of 10 September 2003, and the amendment Notice published in Board Notice 101 of 2004 in *Gazette* 26844 of 29 September 2004, are hereby repealed.

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**Transitional provisions**

**7.** (1) The provisions of this Schedule apply, subject to subparagraphs (2) and (3), only to a person who applies for a licence in terms of the Act as a financial services provider, or who is appointed, in terms of the Act, as a key individual or representative for any financial services provider, on the date of coming into operation of this Schedule or on any date thereafter.

(2) *(a)* Subject to subparagraph (b), the provisions of this Schedule do not affect the rights, obligations or privileges of a person who on the date of coming into operation of this Schedule holds a licence as a financial services provider under the Act, or a person who is on that date an existing key individual or existing representative of any such financial services provider.

*(b)* Any licensed financial services provider, any key individual and any representative of such provider, who has on the date referred to in subparagraph (a) not yet fully complied with a condition or restriction applying to that person by virtue of a provision in Column Four of Table A, B or C of the Schedule to the Determination referred to in paragraph 6, may elect to comply with an applicable alternative condition or restriction now referred to in Column Four of the Schedule to this Determination: Provided that any such existing condition or restriction not so having been complied with, or any new alternatively elected condition or restriction must be complied with before or on 31 December 2009.

(3) Subject to subparagraphs (1) and (2), anything done or omitted under, in terms of or by virtue of a provision of the measures repealed by paragraph 6, is deemed, unless clearly inappropriate, to have been done or omitted under, in terms of or by virtue of a corresponding provision of this Schedule.

**Short title and commencement**

**8.** This Determination is called the Determination of Fit and Proper Requirements for Financial Services Providers, 2006, and comes into operation on the date of publication thereof in the *Gazette*.

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